

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CLEBERSON QUADRELLI, EVENS DRY,)	
and ABDY NIZEYIMANA, on behalf of)	
themselves and all others similarly situated,)	
)	
Petitioners,)	
)	
v.)	Civil Action No. 20-10685-ADB
)	
ANTONE MONIZ, Superintendent of the)	
Plymouth County Correctional Facility)	
)	
Respondent.)	

**RESPONDENT’S EMERGENCY MOTION TO LIFT
THE COURT’S ORDER ONLY AS TO THREE PETITIONERS**

Respondent Antone Moniz (“Respondent”), Superintendent of the Plymouth County Correctional Facility (“PCCF”), by and through his attorney, Andrew E. Lelling, United States Attorney for the District of Massachusetts, respectfully moves to lift the Court’s Order, dated June 8, 2020, staying all removals of Petitioners from this jurisdiction until further notice. Doc. # 139. In this motion, Respondent seeks a limited exception to the Court’s order that would apply only as to three Petitioners with final orders of removal that are scheduled to leave Plymouth County Correctional Facility (“PCCF”) early tomorrow morning in order to be removed from the United States. In support of this motion, Respondent states as follows.

This afternoon, Petitioners’ counsel emailed the undersigned regarding information he had received that some number of Petitioners would soon be transferred out of PCCF. As a courtesy, the undersigned made inquiries at ICE, learned that eight Petitioners were scheduled to be transferred tomorrow (three for removal and five to make additional room for social distancing in Unit C-3), and promptly relayed that information to Petitioners’ counsel. In response, at 4:37 PM,

Petitioners' counsel filed an emergency motion to halt those transfers. Doc. # 138. At 8:41 PM, approximately four hours later, this Court entered the following order:

Currently pending before the Court is Petitioners' emergency motion [ECF [138]] concerning the transfer of 8 members of the recently certified class. Respondent is ordered not to remove any Petitioners from this jurisdiction until further notice. Although the Court is generally aware of Respondent's position on the motion, Respondent has not yet filed anything on the record and the Court will not make a decision without giving Respondent an opportunity to do so. That being said, assuming that Respondent confirms on the record what he has represented in emails, the Court is likely to allow the three being transferred to facilitate immediate removal to be removed from Plymouth. The clerk will set an initial hearing on the issue for Tuesday, June 9, 2020, at which time the Court may amend this order.

Doc. # 139. Less than an hour later, the undersigned informed this Court's courtroom clerk that it would be filing an emergency motion tonight seeking limited relief as to three Petitioners.

The three Petitioners in question are Mohommad Ahmed, Mohammad Rasel Ahmed, and Abdur Rahim. All are citizens of Bangladesh. *See* Greenbaum Decl., attached as Exhibit A hereto, ¶ 4. All three have final orders of removal and valid travel documents permitting their removal. *Id.* ¶ 5. Each is scheduled to depart PCCF tomorrow, June 9, 2020, at 4:00 AM. *Id.* ¶ 8. From PCCF, they will stop at an ICE facility in Burlington, Massachusetts, for processing and then they will be transported to Pease International Airport in New Hampshire for a flight that departs tomorrow, June 9, 2020, at 10:00 AM. *Id.* They will stay in a facility in Alexandria, Louisiana, for one day and then be transported to Dallas, Texas, on Wednesday, June 10, 2020. *Id.* Their international flight from Dallas to Bangladesh departs on Monday, June 15, 2020. *Id.*

Unless the Court lifts its order with respect to these three Petitioners, effecting timely removal will result in great financial expense to the federal government and will increase health risks to these three Petitioners. "Prior to departing PCCF, petitioners will be screened for symptoms of COVID-19, to include questions regarding symptoms and temperature check. Such

screenings occur at each leg of transit.” *Id.* ¶ 9. “Per ICE COVID-19 Response Guidance, all persons onboard the flight wear surgical masks, are symptom screened, to include body temperature. Any person exhibiting symptoms of COVID-19 are excluded from the flight, isolated and tested for COVID-19.” *Id.* ¶ 10. “Prior to boarding any ICE charter flight all detainees are evaluated and symptom screened by an Immigration Health Service Corps (IHSC) flight nurse. Any detainee not passing symptom screening and temperature check is not permitted to board.” *Id.* ¶ 11. “Petitioners must be at the staging location no later than June 11, 2020, in order to provide time for medical evaluation prior to departure to Bangladesh.” *Id.* ¶ 12.

“In the alternative to the travel plans described above, should petitioners not be permitted to travel via ICE charter on June 9, 2020, ICE ERO Boston would be required to transfer to Dallas via commercial air carrier under escort, at great financial expense to the Government and without the ability to travel with an IHSC flight nurse and without the ability to ensure all persons aboard the commercial flight are wearing surgical masks and have been symptom screened and temperature checked prior to boarding such flight.” *Id.* ¶ 13. “It is unknown when the next charter removal flight to Bangladesh will occur. It is also unknown whether ICE would be able to effectuate removal to Bangladesh via commercial removal at this time due to restrictions on international travel.” *Id.* ¶ 14.

The undersigned has conferred with Petitioners’ counsel, who stated that they take no position with respect to the relief sought in this emergency motion.

WHEREFORE, Respondent respectfully requests that the Court lift its order as to these Petitioners so that ICE may effectuate their timely removal from the United States.

Respectfully submitted,

ANTONE MONIZ
Superintendent of the Plymouth
County Correctional Facility

By his attorneys,

ANDREW E. LELLING,
United States Attorney

By: /s/ Jason C. Weida
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Dated: June 8, 2020

LOCAL RULE 7.1(a)(2) CERTIFICATION

I hereby certify that, by email on June 8, 2020, I conferred with counsel for Petitioners, who stated that they take no position with respect to the relief sought in this emergency motion.

/s/ Jason C. Weida
Jason C. Weida
Assistant U.S. Attorney